

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

Writ Petition No.24681 of 2006 and
M.P.No.1 of 2006

Violet Malliga

...Petitioner

Vs.

1. Appellate Authority
Deputy General Manager,
State Bank of India,
Disciplinary Proceedings Section,
Zonal Office, 86, Rajaji Salai,
Chennai 600001.
2. Disciplinary Authority
Assistant General Manager, Region IV,
State Bank of India,
Disciplinary Proceedings Section,
Zonal Office, 86, Rajaji Salai,
Chennai 600001.
3. General Manager,
Zonal Office,
State Bank of India,
Disciplinary Proceedings Section,
Zonal Office, 86, Rajaji Salai,
Chennai 600001.
4. Kalaivanan,
S/o Ambalavanan,

...Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the Order dated 4.3.2003 passed by the First Respondent on appeal in DIS/CON/No.687 dated 5.3.2003 against the order of discharge by the Second Respondent in his order DIS/CON/No.360 dated 5.8.2002 and to quash the same and direct the respondent 1 and 3 to reinstate the petitioner as Assistant in State Bank of India Branch, Ida Scudder Road, Vellore.

For Petitioner : Mr.K.P.S. Palanivelrajan
For Respondents : No appearance

O R D E R

The Writ Petitioner was appointed as a Clerk on 30.3.1993 in State Bank of India, Vellore Town Branch. While she was working in the said branch, she purchased a vacant house site by paying part sale consideration of Rs.45,000/- out of the total consideration of Rs.1,14,000/-. Sale deed was registered on 16.2.2000 with an agreement to pay the balance amount. The Petitioner also applied a house construction loan of Rs.2,50,000/- from her bank. However, the respondent bank has granted a sum of Rs.1,50,000/-. For that purpose she has created an equitable mortgage on 07.03.2000 by depositing the original sale deed dated 16.02.2000 with the bank. Since the balance amount was not paid, the Fourth Respondent, Vendor of the land had got another sale deed registered in his favour on the pretext that he would re-convey the property on payment of balance sale consideration.

2. Since the sale deed was obtained by force, the Petitioner lodged a complaint to the Superintendent of Police against both respondents. While the matter stood thus, the Petitioner was placed under suspension on 26.02.2001 and a charge memo was issued on 11.7.2001 and enquiry officer was appointed. The following charge was framed against the Petitioner:-

"On 23.2.2000 with an intention to defraud the bank, executed a sale deed in favour of one Sri.A. Kalaivanan and registered the same on 24.05.2000, for the sale of a property situated at Survey No.73B, 75B, Plot No.6 and 7, Thorapadi Village, Vellore District, over which an equitable mortgage was already created by you 07.03.2000 in favour of our bank as a security for an housing term loan of Rs.2.50 lacs sanctioned to you on 03.03.2000 for construction of a house at the site in question."

3. The Disciplinary Authority by his order dated 05.08.2002 imposed the punishment of discharging the Petitioner from service. Against which the Petitioner preferred an appeal. The Appellate Authority dismissed the appeal on 4.3.2002. Aggrieved over the same the present writ petition has been filed.

4. The Respondent filed an elaborate counter reiterating that the Petitioner has committed a misconduct of causing loss to the Bank by alienating the property without the concurrence of the bank. The re-conveyance made in favour of the Fourth Respondent would take effect from the date of the instrument. The contention of the petitioner that the private transaction is nothing to do with the bank service conditions has no substance, since the gross negligence causing loss to the bank amounts to doing an act prejudicial to the interest of the bank. Therefore the punishment imposed by the Disciplinary authority is very much legal and Appellate Authority considering the materials and rejected the appeal. Therefore, the order does not require any interference.

5. I considered the materials placed before this Court. Admittedly, Petitioner purchased the property from the Fourth Respondent by way of a registered sale deed No.1068 of 2000 dated 16.02.2000. Purchase of the land has nothing to do with the discharge of her duties to the bank. She availed house construction loan for a sum of Rs.1,50,000/-. However, it is alleged that she has re-conveyed the property on 24.05.2000 without concurrence of the bank. The re-conveyance had taken place due to non-payment of balance sale consideration. Therefore, it is relevant to note that the Petitioner paid a sum of Rs.45,000/- and got the document registered and availed loan for payment of balance sale consideration. The vendor of the property got it re-conveyed through a registered document No.3346 of 2000. The contention of the Petitioner is that the re-conveyance was obtained by force and she had made a complaint to the Superintendent of Police. While that being so, the Respondents have framed charge for conveying the property without concurrence of the bank. Nowhere it is stated that the above said transaction will amount to misconduct as per rules and regulations or service conditions of the bank. Simply an enquiry was conducted on the charges framed. The Petitioner alleges violation of principles of natural justice by not providing ample opportunities during enquiry proceedings.

6. Be that as it may. On 5.8.2002 the disciplinary Authority has passed the order of punishment which reads as follows:

"I draw your reference to the personal hearing you had with me on the 23rd May 2002 and your letter dated 23.05.2002 delivered to me during the course of the personal hearing.

2. I have gone through the proceedings of the personal hearing and the contents of your letter under reference and applied my mind dispassionately over the matter. I do not agree with the excuses offered by you for your misconduct. The other points raised in your letter under reference are personal in nature. I am of the opinion that you have not brought out any fresh points, either during the course of the personal hearing or in your letter under reference, to enable me to take a lenient view in the matter.

3. Inasmuch as the charges proved against you are grave in nature, I am unable to take into consideration extenuating circumstances, if any, for reducing the punishment of "Dismissal without notice", already proposed by me in my letter No.Dis/Con/246 dated 04.05.2002. However, taking into consideration your poor financial situation as a widow, I am, as a very special case, inclined to take a lenient view in the matter and reduce the punishment to one of "discharge".

4. Accordingly, you are hereby DISCHARGED from the Bank's service with immediate effect. The period during which you were under suspension will be treated as one of suspension for all intents and purposes.

5. Please note that an appeal against this order can be preferred within 45 days of receipt of this order, vide paragraph 521-12 of the Sastry Award."

7. From the above order, I am unable to find any independent enquiry as contemplated by law following principles of natural justice. The findings of the disciplinary authority is not supported by any materials or evidence recorded in accordance with law. It gives an impression that the order came to be passed on whims and fancies of the authority as per his personal perception. The impugned order on the face of it, is cryptic and without any reasons. Any order passed without reasons is non-speaking order which amounts to violation of principles of natural justice. Further, from the beginning there is no specific averment that the transaction made by the petitioner

would fall within the definition of the misconduct as per the Rules and Regulations of the Respondents Bank. Even in the counter affidavit it is denied vaguely and it is averred that "there is no substance, that the purchase of the land and availing of house construction loan has no connection with the discharge of duties of the employee of the bank.'" In such a view of the matter, I do not find that the conduct of disciplinary proceedings and the punishment imposed by the Respondent is arbitrary, illegal and violative of principle of natural justice. Therefore, the punishment imposed by the Second Respondent dated 5.8.2002 is liable to be set aside for its cryptic nature and equally the order passed by the Appellate Authority without assigning any reason would also not sustainable in the eyes of law.

8. Accordingly the order of the Appellate Authority dated 04.03.2003 confirming the order of the Disciplinary Authority dated 05.08.2002 stands set aside. The Writ Petition is allowed. The respondents are directed to disburse all terminal benefits to the Petitioner within 12 weeks from the date of receipt of copy of this Order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ggs

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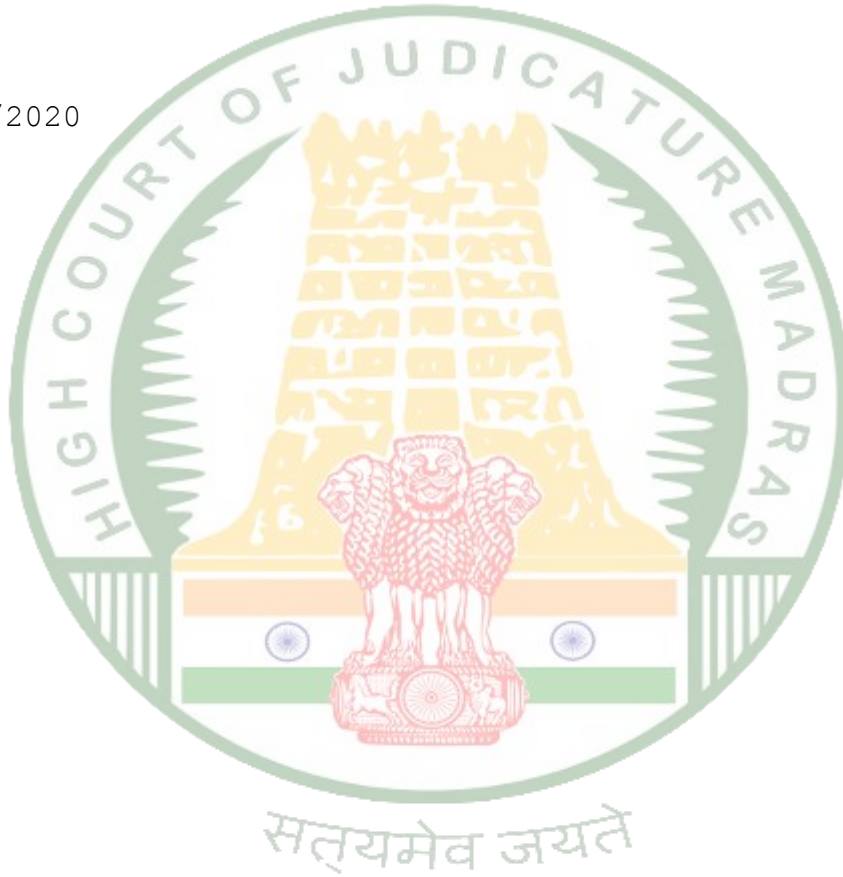
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+1cc to Mr.B.Ramesh Babu, S.R.No.10955

Order in:
W.P.No.24681 of 2006

RLD(CO)
KKV/17/09/2020



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